

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Facility Need Review—Nursing Facilities, Beds (LAC 48:I.12503)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following emergency rule for facility need review as authorized by R.S. 40:2116 and as directed by the 1995-96 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is effective April 9, 1996 and adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B). It shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The legislative appropriation for SFY 96 is insufficient to fund the Medicaid program at the 1995 level for the provision of nursing facility services. The amount budgeted for these services is \$481,689,655 while projected expenditures are \$527,096,886. The projected expenditures exceed the legislative appropriation, creating a projected deficit of about \$45 million. Therefore, program reductions are required to control expenditures in order to avoid a budget deficit in the medical assistance programs.

Data from *The Guide to the Nursing Home Industry*, 1995 by HCIA Inc. and Arthur Anderson LLP, indicates that sufficient nursing facility beds are available in Louisiana to serve the Medicaid population requiring this level of care. Nationally, the occupancy rate for nursing homes is about 91 percent, while in Louisiana the occupancy rate is about 87 percent. For beds per 1,000 persons age 65+ the national average is about 54.6, while in Louisiana it is at least 77 beds.

Costs incurred for the care of each Medicaid beneficiary are factored into the reimbursement rate for nursing facilities when these rates are rebased. Costs of additional unoccupied beds, including but not limited to capital and maintenance costs, will be absorbed into and increase rates for Medicaid beneficiaries filling occupied beds. If more beds are enrolled than needed, expenditures will increase beyond the amount necessary for providing required nursing facility care to the Medicaid population.

In order to avoid a budget deficit in the medical assistance programs, the department repeals those facility need review regulations which provide for the approval of additional nursing facility beds to enroll in the Title XIX Program based on either a nursing facility specific exception for an area with high occupancy or the replacement of a nursing facility that is structurally older than 25 years.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A.1.-6.d. ...

B. Nursing Facilities/Beds

1.-8. ...

9. In order for additional nursing facilities/beds to be added in a service area, the bed-to-population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and average annual occupancy for the four most recent quarters as reported in the LTC-2 shall exceed 95 percent in the service area. An exception for areas with high occupancy is described below:

a. - a.vii. Repealed.

b. - b.xiii. ...

10.a. - 10.c. ...

11. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 22:

Bobby P. Jindal
Secretary